

MOTOR VEHICLE FUEL TAX INFORMATION

including the PETROLEUM INSPECTION FEE

Wisconsin Department of Revenue

April 2006

INTRODUCTION

This document provides information concerning Wisconsin's motor vehicle fuel tax law and petroleum inspection fee. It explains who needs a motor vehicle fuel license or a petroleum products shipper license, when reports are due, what fuel sales are exempt from the motor vehicle fuel tax and petroleum inspection fee, what records to keep, the interest and penalties imposed on reports filed incorrectly or late, the reporting requirements of interstate motor carriers, and many other related topics.

The information in this document reflects Wisconsin's fuel laws and administrative rules effective April 1, 2006. Laws and rules enacted after this date may change the information and interpretations in this document.

If you have questions, you may call or visit the department at:

2135 Rimrock Road
Madison, WI
Telephone (608) 266-3223 or 261-8985
Fax: (608) 261-7049

or write to:

Excise Tax Section
PO Box 8900
Madison, WI 53708-8900
E-mail: excise@dor.state.wi.us

I. FUEL DEFINITIONS

• **Motor Vehicle Fuel:** The Wisconsin fuel tax law, Chapter 78, defines motor vehicle fuel as gasoline and diesel fuel. Gasoline includes gasohol and transmix. Diesel fuel includes number 1 and number 2 fuel oils, whether dyed or undyed, or high or low sulfur. Kerosene is not a motor vehicle fuel unless it is blended with another product and/or used to power a motor vehicle.

• **Petroleum Products:** The Wisconsin oil inspection law, Chapter 168, defines petroleum products as gasoline, gasoline-alcohol fuel blends, kerosene, fuel oil, burner oil and diesel fuel oil. Compressed natural gas (CNG) and liquefied propane (LPG) are not contained in the definition of petroleum products, and therefore are not subject to the petroleum inspection fee.

II. IMPOSITION OF THE MOTOR VEHICLE FUEL TAX AND PETROLEUM INSPECTION FEE

The Wisconsin motor vehicle fuel tax and petroleum inspection fee are imposed when petroleum products are withdrawn and metered out at the terminal or refinery rack.

Gasoline, undyed diesel fuel and other petroleum products can be imported into Wisconsin by pipeline or marine vessel for terminal storage, or be produced, manufactured, or refined within this state and stored by the refiner, without incurring liability for paying the motor vehicle fuel tax and the petroleum inspection fee until the product is metered out. The motor vehicle fuel tax and petroleum inspection fee on gasoline, undyed diesel fuel and other petroleum products imported into Wisconsin by any other method is payable by the licensed supplier. See Part IV for information about becoming a licensed supplier.

The motor vehicle fuel tax is also imposed upon any untaxed fuel products (for example: kerosene, biodiesel, waste oil, heavy oil, naphthas, or solvents) which a person sells or uses to power a licensed motor vehicle. At the point when untaxed fuel products are placed directly into the supply tank of a licensed motor vehicle or are **blended** with taxed products (undyed diesel fuel or gasoline), the untaxed products are subject to the Wisconsin motor vehicle fuel tax.

• **Exceptions from the Wisconsin Motor Vehicle Fuel Tax:** The following fuel sales are exempt from the motor vehicle fuel tax:

a. Gasoline and undyed diesel fuel sold to the **United States government** or its agencies.

*CAUTION: Fuel sold to the State of Wisconsin, local municipalities in Wisconsin or school districts is taxable unless the sale qualifies as exempt under items b through f below. Only undyed (tax-paid) diesel fuel can be placed into the supply tank of a licensed diesel powered motor vehicle (e.g., **school bus**) owned or operated by a municipality or school district.*

b. **Gasoline** sold for off-road use in mobile machinery and equipment providing the gasoline is delivered directly into a customer's bulk storage tank in an amount not less than 100 gallons.

Caution: Gasoline cannot be sold tax-exempt if it will be placed into the fuel supply tank of a licensed motor vehicle (except an urban mass transportation vehicle), snowmobile, recreational motorboat, or an all-terrain vehicle unless the ATV is registered for private use.

c. Gasoline and undyed diesel fuel sold to a common motor carrier for urban mass transportation of passengers.

d. Gasoline and undyed diesel fuel exported from Wisconsin.

- e. Gasoline sold for use in aircraft to a general aviation fuel dealer or user licensed with the department providing the gasoline is **delivered** directly into the dealer or user's bulk storage tank in an amount not less than 100 gallons.
- f. Undyed diesel fuel sold as heating oil.
- g. Undyed diesel fuel sold for use in trains.
- h. Gasoline and undyed diesel fuel sold on a Tribal Reservation to Native Americans (see "Federal Preemption of State Taxes" below).
- i. Dyed diesel fuel (may only be used for off-road purposes).

EXEMPT MOTOR VEHICLE FUEL SALES MUST BE DOCUMENTED – In order to make exempt sales to customers, fuel suppliers and vendors must obtain from customers documentation which shows that the customers are eligible to purchase motor vehicle fuel exclusive of the Wisconsin motor vehicle fuel tax. When the law does not prescribe a specific type of exemption document, you can design your own based on department specifications or use the department's fuel tax exemption certificate (MF-209) which can be reproduced. Blank forms can be obtained by calling (608) 266-3223 or 266-0064.

• **Exceptions from the Petroleum Inspection Fee:** The following fuel transactions are exempt from the inspection fee:

- a. Fuel sold to the US Government and its agencies.
- b. Fuel exported from Wisconsin.
- c. Fuel transferred to tax-free terminal storage.

• **Federal Preemption of State Taxes:** "Federal preemption" means that Indian Treaties and federal statutes prohibit state taxation of Tribes and Native Americans in certain circumstances. As a result, Native Americans are not subject to the Wisconsin excise tax on fuel they purchase if the fuel is delivered to them on their tribal reservation, except where any of the fuel is purchased for resale to non-Native Americans. (**Note** – The term "Native American" includes Tribes, members of the Tribe who reside on their tribal reservation, and Native American corporations and partnerships.) Native Americans that purchase fuel for resale to both Native Americans and non-Native Americans are subject to Wisconsin fuel taxes. A supplier, wholesaler or retailer who makes a nontaxable sale to a Native American should obtain a properly completed exemption certificate (Form MF-209) from the purchaser. The completed certificate should identify the purchaser as a Native American and state that delivery is taking place on the purchaser's tribal reservation. The fuel can then be sold to the Native American at a sales price that excludes state fuel taxes. A tax refund or credit is available to persons who make exempt sales of tax-paid gasoline and diesel fuel. Non-Native Americans who purchase fuel on a reservation are subject to the Wisconsin fuel tax. Fuel delivered to Native Americans off the reservation is also subject to the Wisconsin fuel tax. A tribe is entitled to a refund from the department for fuel tax it indirectly paid to a business, which may be either a Native American or a non-Native American business, relating to fuel delivered to the business on the reservation and used by the business in its operations on the reservation for the Tribe.

III. MOTOR VEHICLE FUEL TAX RATE AND PETROLEUM INSPECTION FEE

The Wisconsin *excise tax* on motor vehicle fuel as of April 1, 2006 is 30.9¢ per gallon.

The *petroleum inspection fee* as of April 1, 2006 is 2¢ per gallon.

• **Annual Adjustment of Motor Vehicle Fuel Tax Rate:** Wisconsin law provides for an annual automatic adjustment of the motor vehicle fuel tax rate based on the U. S. Consumer Price Index. The new rate, which is effective April 1 each year, may be higher or lower than (or the same as) the prior rate. *The annual adjustment does not pertain to the petroleum inspection fee.*

RATE CHANGE NOTICE – The motor vehicle fuel tax rate is recalculated in February each year. After that computation is made, the department releases the new fuel tax rate to the news media for publication.

MOTOR VEHICLE FUEL FLOOR TAX – When the motor vehicle fuel tax increases, a floor tax is imposed on every person who is in possession of any motor vehicle fuel held for sale or resale on the date of the increase on which the motor vehicle fuel tax already has been imposed. The floor tax is the amount by which the motor vehicle fuel tax rate increases. If the tax rate should decrease, a refund is available.

IV. OBTAINING A FUEL LICENSE

To obtain a motor vehicle fuel tax license, a petroleum products shipper license, or a transporter (petroleum products carrier) registration number, you must submit a properly completed fuel application to the department. You can obtain an application by calling the department's Customer Service and Education Bureau Registration Unit at (608) 261-6435. There is no fee for a fuel license or a transporter registration number. However, persons wanting a fuel license must also hold a Business Tax Registration (BTR) Certificate with the department for which there is a one-time \$20 charge (renewable every two years for \$10). More information about the BTR Certificate should accompany the fuel application.

• **Who Needs a Motor Vehicle Fuel Tax License:** Persons who want to function as a supplier or "restricted" supplier of motor vehicle fuel (gasoline and diesel fuel) in Wisconsin must obtain a fuel license from the department and remit any tax owing directly to the department. These persons are also liable for remitting the petroleum inspection fee owing on petroleum products they handle in Wisconsin.

"Suppliers" include persons who:

- a. Import or acquire immediately upon import, gasoline or diesel fuel by pipeline or marine vessel from a state, territory or possession of the United States or from a foreign country into a terminal.

- b. Produce, manufacture or refine gasoline or diesel fuel within Wisconsin.
- c. Acquire motor vehicle fuel pursuant to an industry terminal exchange agreement.
- d. Produce alcohol or alcohol derivative substances in Wisconsin, import alcohol or alcohol derivative substances into a terminal or bulk plant, or acquire them immediately upon import by truck, rail car or barge into a terminal.

The above suppliers must also be registered with the federal government under 26 USC 4101 for tax-free transactions in gasoline and diesel fuel.

Suppliers also include “**restricted suppliers**” who may only:

- a. Import motor vehicle fuel and/or other petroleum products into Wisconsin from an out-of-state bulk plant providing the transporting vehicle is not capable of carrying more than 4,200 gallons and the delivery location is no more than 25 miles inside the Wisconsin border.
- b. Remove motor vehicle fuel from a bulk plant in Wisconsin in a vehicle capable of not carrying more than 4,200 gallons to a destination not more than 25 miles outside the Wisconsin border.

No person may import motor vehicle fuel into Wisconsin, or sell, use, transport or store motor vehicle fuel in this state unless the fuel tax and petroleum inspection fee have been paid to or liability accrued by the holder of a valid motor vehicle fuel license issued by the department.

• **Who Needs a Petroleum Products Shipper License:**

Persons who pay their supplier the Wisconsin motor vehicle fuel tax and the Wisconsin petroleum inspection fee do not need this license. In addition, you do not need this license if you are registered with the department as a motor vehicle fuel supplier. *However, you must obtain a shipper license if you sell petroleum products in Wisconsin on which the Wisconsin inspection fee has not been paid.* You will then remit the inspection fee directly to the department. The petroleum products subject to the inspection fee include, for example: gasoline, diesel, kerosene, aviation fuel, jet fuel, racing fuel and dyed fuel oil.

• **What Does a Terminal Operator Need:** A **terminal operator** is the person who by ownership or contractual agreement is responsible for, or has physical control over, the operation of a terminal. A terminal operator who does not own any of the fuel products handled by the terminal is not required to obtain a motor vehicle fuel license. However, these terminal operators are still required to file monthly informational reports with the department itemizing terminal receipts, disbursements and meter readings. These informational reports are due the last day of the month following the month covered by the report and must be filed electronically with the department.

Terminal operators who own the fuel products handled by the terminal must obtain a motor vehicle fuel suppliers license. These terminal operators electronically file a combined monthly motor vehicle fuel suppliers and terminal operators report with the department.

• **Who Needs a Fuel Transporter Registration Number:**

All persons who transport motor vehicle fuel, general aviation fuel or alternate fuels on Wisconsin highways are required to register with the department except private carriers that transport fuel only within Wisconsin and not across state lines. A carrier is termed “private” if it owns the vehicles transporting the fuel as well as the fuel products being hauled.

There is no fee for a transporter registration number. When your application is approved, the department will issue you a registration number which must be displayed on all vehicles you have that transport fuel on Wisconsin highways. You will also be sent petroleum carrier reporting forms you must file each month with the department. Your registration number is valid until it is canceled by you or revoked by the department. Your registration number is not transferable to another person or place.

The registration number issued to you must be painted on both sides and rear of each vehicle you have which transports fuel in Wisconsin. The number must be preceded by the letters WDR, and all characters cannot be less than 5" in height with a stroke not less than 3/4" in width.

Pipeline, rail, ship and barge carriers who transport fuel in Wisconsin (**not upon Wisconsin highways**) are not required to obtain a fuel registration number but are required to file monthly reports with the department itemizing fuel shipments in Wisconsin.

• **Security Required For Motor Vehicle Fuel License and Petroleum Products Shipper License:**

You may be required to submit security guaranteeing your payment of the Wisconsin motor vehicle fuel tax and petroleum inspection fee. The department will determine the amount of security required but it cannot exceed three times a licensee's average monthly liability. Acceptable types of security include, but are not limited to: bonds, certificates of deposit, or cash. If you maintain a problem-free filing and payment record for two years, your security can be released. *Security is not required to obtain the transporter registration number.*

• **Display of License:** Your license must be conspicuously displayed at each location at which you do business.

• **Reporting Name/Address/Ownership Changes or Ceasing Operations:**

The department needs to know when your business undergoes any change to its name, address or ownership, or when you cease operating in Wisconsin. You can notify the department via letter or by completing the designated area for this on your monthly report. If you receive a different

Federal Employer Identification Number, you must file a new fuel application with the department and update your security, if any. Call (608) 261-6435 if you want to know how a possible name or ownership change will affect the status of your license or transporter registration number.

V. WHO MUST FILE REPORTS AND PAY FUEL TAXES & PETROLEUM INSPECTION FEES TO THE DEPARTMENT

• **Motor Vehicle Fuel and Petroleum Products Shipper Licensees:** All motor vehicle fuel licensees registered with the Wisconsin Department of Revenue must complete and file a report with the department each month summarizing their fuel transactions and computing any motor vehicle fuel tax and petroleum inspection fee due. All petroleum products shipper licensees registered with the department must also complete and file a report with the department each month summarizing fuel transactions and computing the petroleum inspection fee due. *Reports must be filed by licensees even when no tax and/or fee is due.*

At this time, the department allows most “restricted” motor vehicle fuel suppliers and petroleum products shippers to file paper reports (MF-002 plus schedules). However, the remaining motor vehicle fuel suppliers must electronically file their monthly reports with the department as described below.

ELECTRONIC FILING OF REPORTS – The department requires motor vehicle fuel suppliers to file reports electronically. A guide for the electronic filing of tax reports and schedules is mailed to all suppliers who are required to file reports electronically. Questions about filing reports electronically, as well as requests for extra copies of the guide, should be directed to (608) 266-8242.

DUE DATE OF FUEL REPORTS – Fuel reports are due on the last day of the month following the month covered by the report. *However the tax is due on the 15th day of the following month as explained below.*

DUE DATE TO REMIT FUEL TAXES AND FEES – Motor vehicle fuel taxes and petroleum inspection fees must be collected by the licensed supplier and then remitted to the department on or before the 15th day of the month following the month covered by a report. For example, fuel taxes and inspection fees owing on an April report are payable on or before May 15. (In this example, the report itself is due May 31.) Subsequent purchasers of the fuel on which the motor vehicle fuel tax has been collected must add the fuel tax to the selling price so the tax is ultimately paid by the user of the fuel.

PAYMENT BY EFT – The motor vehicle fuel tax and petroleum inspection fee must be paid by EFT (electronic funds transfer) to the department’s depository bank. Information about EFT is sent to all persons who apply for a motor vehicle fuel license or a petroleum products shipper license.

ADMINISTRATIVE ALLOWANCE – Licensed motor vehicle fuel suppliers may deduct an allowance of 1.35% when remitting the fuel tax on gasoline to the department. Of the 1.35% allowance, 1.25% must be passed on by a supplier to a wholesale distributor when the distributor pays the gasoline tax to the supplier. A **wholesale distributor** is a person who acquires motor vehicle fuel from a licensed supplier or from another wholesale distributor for subsequent sale at wholesale in Wisconsin. *The allowance does not pertain to diesel fuel or the petroleum inspection fee.*

TAX PAYMENT DELAY FROM WHOLESALE DISTRIBUTOR TO LICENSEE – A wholesale distributor has the option to delay paying the motor vehicle fuel tax to a licensed supplier until the date the fuel tax is due the department by the supplier (the 15th day after the close of the month in which the wholesale distributor receives the fuel). **The delayed tax payments must be made by electronic funds transfer.** Licensed suppliers can terminate the right of a wholesale distributor to make delayed payments when such payments are not timely made. Licensed suppliers must notify the department of wholesale distributors who elect to make delayed fuel tax payments. *The payment delay also pertains to the petroleum inspection fee.*

UNCOLLECTIBLE MOTOR VEHICLE FUEL TAXES FROM CUSTOMERS – Licensed motor vehicle fuel suppliers as well as wholesale distributors may recover the motor vehicle fuel tax from the department when a purchaser (for wholesale distributors, this purchaser must be another wholesale distributor or a retail dealer) is unable to pay the tax. A supplier or wholesaler is relieved from the liability for motor vehicle fuel tax on accounts found worthless and charged off for income tax purposes. Licensed suppliers may claim a deduction on their monthly supplier’s report for the worthless account and wholesale distributors may apply to the department for a refund using form MF-016. Wholesale distributors should call the department at (608) 266-3223 for the refund claim form. *This does not pertain to the petroleum inspection fee.*

BLENDERS (SELLERS/USERS) OF UNTAXED FUEL PRODUCTS TO POWER LICENSED MOTOR VEHICLES – A blender’s fuel tax report (MF-017) must be filed by persons who sell or use any untaxed products (for example: kerosene, biodiesel, waste oil, heavy oil, naphthas, or solvents) to power licensed motor vehicles. The report and any tax owing is due on or before the 15th day of the month following the month covered by the report. Call (608) 266-8242 for copies of the blender’s report.

• **Terminal Operators:** Monthly informational reports must be filed electronically by all terminal operators and refineries. These reports are due the last day of the month following the month covered by the report. An implementation guide for the electronic filing of reports and schedules is mailed to all terminal operators. Questions about filing reports electronically, as well as requests for additional copies of the guide, should be directed to (608) 266-8242.

• **Fuel Transporters:** Monthly informational reports (MF-008 plus schedules) must be filed by all transporters registered with the department; and all pipeline, rail, ship, and barge carriers who transport fuel in Wisconsin not upon Wisconsin highways. These reports are due the 30th day of the month following the month covered by the report. [Some transporters will be required to electronically file these reports with the department.]

Transporters that are also registered with the department as a "restricted supplier" do not have to itemize fuel shipments/deliveries on their MF-008 that are imported from their out-of-state bulk plant or exported from their Wisconsin bulk plant because these shipments are reported on their monthly fuel supplier's report (MF-002). However, these carriers must itemize on their carrier reports shipments from pipeline terminals which cross state lines. Call (608) 266-3223 for more information about filing carrier reports.

FUEL DIVERSIONS – All interstate fuel diversions involving Wisconsin must be reported to the department using an automated telephone voice response system (IVR). If you have a touch-tone phone, call (888) 367-1600 for information about registering to use this system. If you do not have a touch-tone phone or have additional questions, call the department at (608) 261-6243.

• **Where to File Paper Reports:** "Restricted" suppliers, petroleum products shippers, blenders, and transporters should send their monthly paper reports to:

Wisconsin Department of Revenue
Excise Tax Section
PO Box 8900
Madison, WI 53708-8900

• **Late-Filed Reports & Late Payments:** To be considered timely filed, an **electronically filed report** must be transmitted on or before its due date. A **paper report** must be postmarked by a United States Post Office on or before its due date and received by the department within five days of the due date.

CAUTION – A postage meter is not an acceptable substitute for an official postmark of a United States Post Office when the department determines if a **paper report** is timely filed.

Reports, taxes and inspection fees which are not timely filed or paid are subject to the following statutory charges:

- A mandatory \$10 fee for a late-filed report.
- Interest on late paid taxes and petroleum inspection fees at the rate of 1.5% per month calculated from the due date of the tax/fee until date of payment.
- A late-report penalty of 5% of the fuel tax and inspection fee due for each month the required report is not filed (not exceeding 25% of the tax and fee due).

• **Correcting a Prior Report Filed:**

FILING PAPER REPORTS – If you need to change the gallons shown on a report previously filed, send the department a letter detailing the changes. Calculate the additional fuel tax and/or inspection fee you owe or refund you feel you have coming. Send your letter to:

Wisconsin Department of Revenue
Excise Tax Section
PO Box 8900
Madison, WI 53708-8900

Do not file an amended report or reflect the adjustments on your current report.

ELECTRONIC REPORT FILERS – If you are required to file reports electronically, you may file corrections to those reports with any electronic transmission of fuel data.

• **Revocation of Fuel Licenses:** It is very important that licensees file their monthly fuel reports timely and pay any fuel tax and inspection fee due. Licensees with poor filing and/or payment records may have their licenses revoked by the department.

VI. FILING INCORRECT REPORTS, CRIMINAL CHARGES AND DELINQUENT FEE

• **Incorrect Reports:** The following interest and penalties may be applied when you file incorrect fuel reports:

- Interest at the rate of 12% per year on the unpaid motor vehicle fuel taxes and petroleum inspection fee (all refunded taxes/fees bear interest at the rate of 9% per year).
- Negligence penalty of 25% of the additional fuel taxes and inspection fee due if there is negligence in filing a report.
- Fraud penalty of 50% of the fuel tax and inspection fee due if there was intent to defeat or evade the fuel tax.

When an incorrect report is filed late or the fuel tax and/or inspection fee is not timely paid, the statutory late-filing fee, interest and penalty will also be applied (see Part V).

• **Criminal Charges:** The following violations can result in criminal charges being brought against a person: acting (selling) as a licensee without a license; failing or refusing to furnish a fuel report required by the department; filing a false or fraudulent report or helping another person to do so with the intent to defeat or evade the fuel tax and/or petroleum inspection fee; displaying or using a fuel license known to be fictitious, canceled, revoked or altered; and using a false or fictitious name when submitting a refund claim or committing any other fraud in preparing and submitting a refund claim.

- **Delinquent Fee:** If the department sends you a billing and you do not pay it by its due date, the billing may be subject to a delinquent tax collection fee. The fee is the greater of \$35 or 6.5% of the unpaid tax, interest, fees and penalties that become subject to the delinquent collection action.

VII. VENDOR REFUND CLAIM PROGRAM

Wisconsin law allows a tax deduction or refund to persons who sell **tax-paid gasoline and undyed diesel fuel** for exempt usage (see “exceptions from the motor vehicle fuel tax” in Part II). Fuel suppliers who are licensed with the department may claim a deduction for exempt sales on the monthly fuel supplier’s reports required to be filed with the department. Nonlicensed vendors must file a refund claim (MF-012) with the department to receive a refund of the motor vehicle fuel tax paid when the fuel was originally purchased for resale. On the MF-012, fuel vendors may also claim a refund for the 2¢ per gallon petroleum inspection fee relating to fuel the vendors sell to the US Government and its agencies.

- **Registration Required for Refund Claim Program:**

Nonlicensed fuel vendors who purchase tax-paid gasoline and undyed diesel fuel and who anticipate making exempt sales of the fuel should register with the department to speed the refund claim process. Persons who register will be sent a supply of refund claim forms and name/address labels.

- **Due Date of Refund Claims:** Refund claims should be filed within 4 years from the date exempt fuel is sold. The department asks that you do not file more than one refund claim per month. Refunds do not include interest.

- **Documentation Required for Exempt Sales:** In order to make exempt sales to customers, you must obtain from customers documentation which shows that the customers are eligible to purchase motor vehicle fuel exclusive of the Wisconsin motor vehicle fuel tax. When the law does not prescribe a specific type of exemption document, you can design your own based on department specifications or use the department’s fuel tax exemption certificate (MF-209) which you can reproduce.

- **Additional Information and Forms:** Call the department at (608) 266-7363 or 266-6701 for additional information about the vendor refund program and any registration or refund claim forms you need.

VIII. NONTAXABLE SALES OF MOTOR VEHICLE FUEL AT FULL AND SELF-SERVICE STATIONS OR TRUCK STOPS, AND UNATTENDED LOCATIONS

Most motor vehicle fuel sold through full and self-service stations or truck stops, and unattended locations is dispensed into licensed motor vehicles, and therefore subject to Wisconsin’s motor vehicle fuel tax. However, untaxed sales of motor vehicle fuel can be made at a full or self-service station or truck stop (see “exceptions to the motor vehicle fuel tax” in Part II).

Untaxed sales can also be made at an unattended location if the customer withdraws the motor vehicle fuel from a separate “nontaxable” pump or via a nontaxable key or card issued by the supplier.

To substantiate nontaxable sales, fuel suppliers and vendors must obtain documentation from customers attesting to the exempt usage of the fuel purchased. Suppliers and vendors can design their own exemption form based on department specifications or they can use the department’s fuel tax exemption certificate (MF-209) which can be obtained by calling (608) 266-3223 or 266-0064. For each exempt fuel sale, suppliers and vendors must maintain records showing the name and address of the purchaser, date of sale, what the fuel was placed into (intended use), the number of gallons sold, and that the state fuel tax was deducted from the pump price.

IX. OFF-ROAD USAGE OF MOTOR VEHICLE FUEL

Wisconsin law provides that persons who use motor vehicle fuel (gasoline and undyed diesel fuel) for off-road purposes in mobile machinery and equipment may file a claim with the department for a refund of the Wisconsin motor vehicle fuel tax paid when purchasing the fuel. Farmers, construction companies and logging operations have considerable off-road usage of motor vehicle fuel in nonlicensed mobile machinery and equipment. *The petroleum inspection fee included in the cost of fuel sold or consumed for off-road purposes is not refundable.*

Waste management, ready-mix and liquid waste companies plus companies with boom trucks or derrick/ digger trucks have vehicles with power take-off units that share the same fuel supply tank used to power the vehicle. These companies can receive a partial refund of the motor vehicle fuel tax paid on fuel placed into the vehicle. Call (608) 266-7363 or 266-6701 for more information.

CAUTION – Motor vehicle fuel tax is not refundable when the fuel is used off-road in a snowmobile, recreational motorboat, or an all-terrain vehicle unless the ATV is registered for private use.

- **Law Difference:** Persons who use gasoline for off-road purposes can purchase gasoline tax-exempt by executing an exemption certificate (MF-209) with their suppliers. To be sold tax-exempt, gasoline must also be delivered by the fuel supplier or vendor directly into the customer's bulk storage tank in an amount not less than 100 gallons. However, undyed diesel fuel must be bought tax-included even though purchasers use the fuel for off-road purposes.

- **Refund Claim Form:** Persons with off-road usage of motor vehicle fuel who purchase fuel tax-included must file a claim form with the department to receive a refund of the fuel tax paid relating to their off-road usage. A refund claim must be filed within one year of the date fuel is purchased, and must cover at least 100 gallons. Call (608) 266-7363 or 266-6701 for more information and refund claim forms.

- **Dyed Diesel Fuel:** If you purchased undyed diesel fuel in the past for off-road usage, you may want to consider purchasing dyed diesel fuel instead. Dyed diesel fuel can be purchased tax-exempt but it may only be used for off-road purposes. It cannot be mixed with undyed diesel fuel. CAUTION – Use of dyed diesel fuel for taxable purposes will subject the user, and in some cases the fuel supplier, to severe state and federal penalties.

- **Motor Vehicle Fuel Used in Motorboats:** The State of Wisconsin and the Federal Government (IRS) do not have the same fuel tax treatment of gasoline and diesel fuel used by recreational and commercial motorboats. The following schedule briefly explains the various tax treatments:

RECREATIONAL MOTORBOATS

- **Gasoline** – Taxable by both Wisconsin and IRS. (Tax is paid when fuel is purchased.)
- **Undyed Diesel Fuel** – Taxable by Wisconsin but refundable by the IRS. (Tax is paid when fuel is purchased.)
- **Dyed Diesel Fuel** – Cannot be used in motorboats under Wisconsin law although federal law does allow its usage. Because of the difference between Wisconsin and federal laws, you should purchase **undyed** diesel fuel with the Wisconsin and federal taxes, and then apply for a refund from the IRS.

COMMERCIAL MOTORBOATS

- **Gasoline** – Refundable by Wisconsin or may be purchased tax-exempt. Also refundable by the IRS. (Tax is paid when fuel is purchased.)
- **Undyed Diesel Fuel** – Refundable by Wisconsin and the IRS. (Tax is paid when fuel is purchased.)
- **Dyed Diesel Fuel** – Can be used in any commercial motorboat under Wisconsin law and federal law.

- **Potential Sales/Use Tax Liability:** As a result of purchasing fuel tax-exempt or filing a refund claim and receiving a fuel tax refund, the related fuel may be subject to the Wisconsin sales/use tax. The sales/use tax does not apply to fuel used for farming or residential heating purposes, or placed in auxiliary heating or cooling units of common or contract carriers including the urban mass transportation of passengers. However, the sales/use tax does apply to fuel used by construction companies in off-road machinery and equipment and fuel used to heat business premises. For information about a potential sales/use tax liability, call (608) 266-2776.

X. RETAILER AND TAXICAB FUEL TAX REFUNDS

- **Retail Refunds:** Wisconsin law provides that any person who operates a retail service station in Wisconsin may claim a refund of one-half of one percent of the Wisconsin motor vehicle fuel tax paid on **gasoline** received into that person's retail storage facilities. The refund is designed to compensate for shrinkage and evaporation losses. Refund claims must be filed within one year of the date fuel is purchased. Call (608) 266-7363 or 266-6701 for more information and refund claim forms. *The refund is **not available** on undyed diesel fuel that you purchase for retail sale.*

- **Taxicab Refunds:** Wisconsin law provides that persons who use motor vehicle fuel in operating a taxicab to transport passengers may receive a refund of the Wisconsin fuel tax paid. Vehicles used as taxicabs must be designated as "Vehicle has or will be used for public transportation (taxi)" on the motor vehicle registration form (MV-1) filed with the Wisconsin Department of Transportation. Refund claims must be filed within one year of the date fuel is purchased, and must cover at least 100 gallons. Call (608) 266-7363 or 266-6701 for more information and refund claim forms.

XI. RECORD KEEPING

You must keep a complete copy of your report and all records pertaining to your fuel business for at least four years. The records you keep must enable you and the department to determine the correct amount of your motor vehicle fuel tax and petroleum inspection fee liabilities.

Wisconsin law requires fuel licensees and all others who are required to file reports with the department to keep a record of all purchases (manifests and invoices), receipts, sales, pump meter readings and own usage for each kind or trade name of petroleum product. You are required to keep accurate records of all types of fuel on hand, and to take and record a physical inventory of each type of fuel on hand (bulk and retail separately) at each location at the close of business on the last day of every month. If you make nontaxable fuel sales, you must maintain records of the sales including the name and address of the purchaser, date of sale, what the fuel was placed into (intended

use), the number of gallons sold, and that the state motor vehicle fuel tax was deducted from the pump price. Copies of any executed fuel tax exemption certificates (MF-209) must also be retained. Your records must be stored in a place and manner easily accessible for review by department personnel.

CAUTION – When records are not maintained, Wisconsin law will tax **all** fuel withdrawn from a terminal or refinery rack or imported into Wisconsin by a licensed supplier without benefit of any deductions. Therefore, it is very important that you maintain sufficient records to show how you determined your motor vehicle fuel tax and petroleum inspection fee liabilities.

Call the department at (608) 261-8985 if you have any questions about what records to keep.

XII. ANNUAL MAILING OF REPORTING FORMS

Every year in late April, the department mails a year's supply of reporting forms to each fuel licensee, terminal operator, petroleum products carrier and vendor refund claimant. If you misplace your forms, call (608) 266-3223 or 266-0064 for replacements.

Persons who are required to file reports electronically with the department are advised of changes to filing specifications as they occur.

XIII. MISUSE OF DYED DIESEL FUEL

A penalty is imposed on any person who sells dyed diesel fuel to a person whom it knows (or has reason to know) will use the dyed fuel in a taxable manner, or on the person who uses the dyed fuel in a taxable manner. The penalty is the greater of \$1,000 or twice the applicable tax on the diesel fuel. A \$1,000 penalty is also imposed on retailers who do not conspicuously label fuel pumps or other delivery facilities that dispense dyed diesel fuel.

XIV. FUEL TAX EVASION

Persons who wish to report suspected cases of fuel tax evasion can contact the Wisconsin Department of Revenue at (608) 261-8985. You can also call the Central Region Task Force (headquarters in Indiana, 1-800-528-FUEL) of the Joint Federal/State Motor Fuel Tax Compliance Project which was established to curb fuel tax evasion throughout the United States.

XV. INTERSTATE MOTOR CARRIERS

Motor carriers that cross state lines are required to pay the motor vehicle fuel tax when the fuel is placed into the fuel supply tanks of motor vehicles in each state. The applicable state motor vehicle fuel tax is charged or liability incurred when the fuel is placed into a vehicle's fuel supply tank. The registration and tax reporting requirements interstate carriers may have with **both** the Wisconsin Department of Revenue **and** the Wisconsin Department of Transportation are explained below. The requirements of these departments are mutually exclusive of each other.

- **Wisconsin Department of Revenue:** Interstate motor carriers do not have any registration or reporting requirements with the Department of Revenue. They pay the Wisconsin motor vehicle fuel tax when they refuel vehicles at Wisconsin truck stops or service stations. If they have bulk storage in Wisconsin, the supplier charges the motor vehicle fuel tax to the interstate motor carrier. Motor carriers are eligible for a refund of the Wisconsin motor vehicle fuel tax paid on undyed diesel fuel used by refrigeration units with a separate fuel supply tank (see Part IX). Motor carriers can also purchase dyed (untaxed) diesel fuel for use in refrigeration units. The cost of the fuel purchased also includes the Wisconsin petroleum inspection fee. The inspection fee relating to fuel used by refrigeration units is not refundable. Call the department at (608) 266-7363 or 266-6701 for further information and forms regarding fuel used by refrigeration units.

- **Wisconsin Department of Transportation:** Interstate motor carriers must file quarterly interstate fuel tax reports with the Department of Transportation, reporting miles driven in Wisconsin, and fuel purchased in Wisconsin. Wisconsin is a member of the International Fuel Tax Agreement (IFTA). Mileage, fuel use and fuel purchase information for other IFTA jurisdictions is also reported through the Department of Transportation. Information and application forms can be obtained by calling the department's Motor Carrier Services Section, Fuel Tax Unit at (608) 267-4382 or writing them at PO Box 7979, 4802 Sheboygan Avenue, Madison, WI 53707-7979.